

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN GAY ANN MASOLO**, on March 19, 2001 at 3:20 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Gay Ann Masolo, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Bob Lawson, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Larry Lehman (R)  
Rep. Joe McKenney (R)  
Rep. John Musgrove (D)  
Rep. Butch Waddill (R)  
Rep. Merlin Wolery (R)

**Members Excused:** Rep. Hal Jacobson (D)  
Rep. Jeff Mangan (D)  
Rep. Alan Olson (R)  
Rep. Ken Peterson (R)  
Rep. Allan Walters (R)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Nina Roatch, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 218, 3/5/2001; SB 231,  
3/5/2001; SB 457, 3/5/2001  
Executive Action: SB 430; SB 457; SB 60; SB 218;  
SB 231; SB 130; SB 390

**HEARING ON SB 231****Sponsor:** SENATOR DUANE GRIMES, SD 20, Clancy**Proponents:** Lance Melton, MSBA  
Loran Frazier, SAM  
Eric Feaver, MEA-MFT  
Bill Cooper, OPI**Opponents:** None**Opening Statement by Sponsor:**

SENATOR DUANE GRIMES, SD 20, Clancy, said he has hope in the bill in unique ways. If one goes out on the Internet and looks at distance learning or put any other related matter into a search engine, you are going to come up with tons of online educational resources for K-12. There are many that are high caliber, high quality distance educational opportunities. On one hand, his bill could be characterized as clarification of existing law. The committee will hear that. The purpose of the bill is to provide an mechanism for school districts to provide educational programs in a much more flexible environment than is explicitly stated in current law. The time has come for our schools to begin to branch out and provide educational opportunities via electronic means. That does not always mean Internet. It could mean a fax machine. In the past eight or ten years technology has progressed remarkably. It is user friendly. Subject to local discretion and school administrators desire to implement it, the bill will allow them to do electronic-based learning and provide them ANB funding. It could be used in a variety of ways. When one thinks about some of the classrooms that have an unusually disruptive student, there may be alternative settings for that student to learn in, still meeting the mandates of equal education to all and yet providing a safe or sane classroom for the rest of the students. Some students live too far to commute so this bill could provide an opportunity for part of their schooling, maybe more than part. It begs the question about home-school kids that are currently disenfranchised. They could begin to take advantage of opportunities in their local school districts. Many people have had input in the bill. There could be a fiscal impact, but the parents are paying taxes anyway and if there are home-school kids that take advantage of this opportunity, they are already paying for it in their taxes. This could aid the drop in ANB for the districts.

**Proponents' Testimony:**

**Lance Melton, MSBA** submitted written testimony.

**EXHIBIT (edh62a01)**

**Loran Frazier, SAM**, said the time is right for the bill. Every day in every state there are people working on putting curriculums out for high schools and elementary schools. It will add to the flexibility of the present system. It will be a great boost to the rural districts in the state. It will give alternatives to the larger districts. It is a chance to drawback some of the dropouts that we presently have. It will provide a better homebound education than we are offering now. The state has applied for a Gates Foundation Grant and it looks like it will be funded. That state has asked for \$1.3 million dollars to train all the administrators in the state to feel more comfortable in using the Internet in finding sources of materials that are available in technology.

**Eric Feaver, MEA-MFT**, said he feels the bill is an off-site learning bill. It can allow school districts within the confines of their own district an unlimited number of opportunities and alternatives for providing education for kids who maybe aren't in our schools now but still want to have a public education that conforms with the state and school district requirements.

**Bill Cooper, OPI**, said they rise in support for all of the reasons that have been given. He wanted to emphasize that this is a local control issue. School boards have the right to offer or non-offer. School boards also have the right to approve the curriculum and the courses that are being offered.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE MUSGROVE** asked **Lance Melton** to give him a definition for "enrolled student." **Mr. Melton** said it means anyone who is between 6 and 19 years of age who is enrolled by the school district. Residence is determined according to where the parent resides. **REPRESENTATIVE MUSGROVE** asked if one could envision a virtually enrolled student in addition to a regularly enrolled student. **Mr. Melton** said that because ANB definition is cross referenced with regularly enrolled, someone would be regularly enrolled if the bill is passed, even though they may be not physically present in the school district. You could, for example, have a child at home receiving curriculum on the Internet in his or her home without natural physical presence in the school. **REPRESENTATIVE MUSGROVE** asked if a person could be

enrolled partially in a virtual session and partially in a regular session by picking and choosing or by extending the virtual into extracurricular. **Mr. Melton** said the bill would allow substantial refinements of existing practices with kids who are already enrolled in the schools at this time. It might allow a school district to offer, as part of their instruction, a fine course from another school district that has found a highly successful way of instructing on a particular subject. The school could have a student that is present part of the day and is receiving curriculum via electronics means for another portion of the day if that added up to the hours of instructions and days of instructions required by law.

**REPRESENTATIVE LEHMAN** asked **Mr. Melton** how he would define the difference between distance learning, which has been scratched out in the title of the bill, and electronic delivery of curriculum. **Mr. Melton** said when they first did the bill, he was drafting it with the firm knowledge that BPE had already drafted a distance learning standard. That distance learning standard had most of the safeguards that the committee now sees in the bill itself. There is no real difference between the two terms other than the symmetrical term that people wanted to use when they were talking about amendments to the bill on the Senate side. There is no legal significance to the change from "distance learning" to "electronic delivery of curriculum." They accepted the second wording because a student might not be a great distance from school. **REPRESENTATIVE LEHMAN** said, as an administrator, his school had initiated a couple of programs in higher math and one in Spanish with a school in Washington. It was via satellite and there was interaction between students and the teachers. It was live interaction. Would that program be considered electronic delivery? **Mr. Melton** said yes, although in the example he has used, would be defined under the existing law, because those students were actually physically present within the school system. **REPRESENTATIVE LEHMAN** asked him why the term ANB is such an integral part of the bill. **Mr. Melton** said because it is what drives the whole funding mechanism. The school doesn't receive funding in return for providing services to pupils, you receive funding when the pupils meet the definition of ANB. It is crucial to this bill to have a mechanism to provide the education in a more flexible environment and to include the children in the ANB count so that the funding is provided at the same time.

**REPRESENTATIVE LEHMAN** had a question for **Dave Puyear, MREA**. He is curious as to why MREA did not speak on the bill. **Mr. Puyear** said that it goes to the idea that all education groups are bringing forward their platform and what they intend to emphasize and push for and endorse, there are only so many things and so

much time. His organization has strongly charged him to do that. He is not to come before the legislature on every single bill. They don't want to see that. He stands before the committee on bills that really matter to MREA. MREA is not against the bill.

**REPRESENTATIVE PETERSON** said he recalled that the committee had a bill that it changed the ANB to age 21 for people wanting to come back to school. He notices in the bill that it is still at 19. He thinks the bill would be an ideal situation for those students who are kind of beyond the age to be included and receive their diploma. Why is the age 19 in the bill and will they be coordinated? **Mr. Melton** said he is speaking about **HB 32** and it is currently in House Appropriations and its status is pending. They didn't pick it up in this bill but they strongly support **HB 32** and there is no contradiction. They are not providing competing amendments. If both the bills pass, this bill would be applicable to kids up to the age of 21 under the terms of **HB 32**.

**REPRESENTATIVE PETERSON** said it seemed to him that if **HB 32** doesn't get out of Appropriations, that it would be appropriate to amend the bill to increase the age to 21. **Mr. Melton** said if **HB 32** is not passed with the age of 21 in it, he doesn't think this bill would pass because of the cost. **REPRESENTATIVE**

**PETERSON** had a question about home schooling. If young people are being home schooled and want to take some classes over the internet from the school, how would the ANB be calculated?

**Mr. Melton** said there is separate provision in law in Title 20 that gives OPI the right to develop rules for part-time ANB and they have done so. **REPRESENTATIVE PETERSON** asked if the schools are willing to teach home school students part time. **Mr. Melton** said there were two primary reasons that the resolution was brought forth before his membership. One was reaching out to home school children who are being educated outside of the public education system without trying to reach out and grab them and pull them in. They want to entice them in. The other reason was the alternative environment for at-risk youth.

**REPRESENTATIVE BIXBY** asked if the out-of-district students would be handled the same way as they presently handled? **Mr. Melton** said they intentionally amended the bill in the Senate to ensure against out-of-district children being served unless it is through cooperative agreement of the two districts. The bill says that offering distance learning is limited to kids within the boundaries of the district. Districts can contract for educational services. **REPRESENTATIVE BIXBY** asked if the student doesn't have access to the Internet, would the school put into the home a computer or help the student get access to a computer. **Mr. Melton** said that he would expect it to be implemented in a number of different ways, but one of the ways that he has heard about is using the funding from that pupil to purchase the

technology necessary to provide the education. Under present law you cannot say you will distance learn a child and tell him he has to buy the computer. It is not going to be cheap to fund the bill. They believe they will have the resources through a combination of ANB funding, grants, and other endeavors to come up with the funding necessary to do it and do it right.

**REPRESENTATIVE JACKSON** said the way he understands it is, the school picks out the curriculum and it wouldn't be something that comes through the mail. **Mr. Melton** said that the school must approve the curriculum but that doesn't mean it would not be purchased somewhere. The district could partner up and incorporate into their curriculum a valuable course offered from any public or private entity. **REPRESENTATIVE JACKSON** asked him to tell him about "district approved curriculum." **Mr. Melton** stated the school district have pure local control to adopt text books and curriculum that it wishes to offer subject only to the general supervision of BPE. This is a lot of latitude. On the first page of the bill in lines 20 and 21 it says that districts can contract with other districts or private or public entities. What would be necessary is curriculum that meets the standards of BPE and after the school district approves it as part of the curriculum. **REPRESENTATIVE JACKSON** asked if the curriculum could be delivered by videotape rather than by the computer.

**Mr. Melton** said he believes that it could. **REPRESENTATIVE JACKSON** asked him if he knows of any school that is using this electronic education anywhere in Montana. **Mr. Melton** said he knows school districts who are anxiously researching possibilities. Helena School District has been working with John Kuglin, the professor from the University of Montana that the **SPONSOR** referenced in his opening. There are school districts that are sharing curriculum over satellite at present. **REPRESENTATIVE JACKSON** said he is trying to visualize how the average school could do this program. Does the bill address larger schools mainly? **Mr. Melton** said that early on the predominant model is going to be school districts, large or small, partnering up with the University of Montana and the University of Nebraska. He does not see school districts going out and creating a program with their own staff and resources. It will involve finding ways to get curriculum to the students that students are not receiving now. It can go in different ways as it develops.

**REPRESENTATIVE LAWSON** asked him to refresh the memory of the committee on the local school districts' discretion in regard to accepting students that are less than full time. Do the districts have to do that? **Mr. Melton** said no, the Montana Supreme Court held that if a district did not want allow children to be enrolled part time, it did not have to. **REPRESENTATIVE**

**LAWSON** asked him if he agrees that a local school district would have complete control over accepting a student that wants to come into the program less than full time. **Mr. Melton** said that is correct.

**REPRESENTATIVE FRITZ** asked **Mr. Melton** to tell the committee who prepares the program. He said that John Kuglin is one of many individuals that his organization has discussed the program with. It would depend entirely on what is available on the market. The distance learning standard of BPE that they developed in draft with the MEA-MFT specifically said that the course must be taught by a properly certified and endorsed teacher in Montana or if the student is receiving the instruction from someone who is not properly certified and endorsed, there has to be a properly certified and endorsed teacher there to facilitate the learning process. **REPRESENTATIVE FRITZ** asked how that would take place in individual homes. **Mr. Melton** said not necessarily private responsible for and authorized to provide the contact point.

**REPRESENTATIVE FRITZ** asked how the matter of assessments mandated by the state or by the district would be handled. **Mr. Melton** responded that you would handle them the same way you handle students physically present in the school. That is BPE's distance learning standard that would be complied with.

**REPRESENTATIVE FRITZ** asked if there is any limitations on what students could participate put on the district by the state.

**Mr. Melton** answered no. That would be local control.

**REPRESENTATIVE MANGAN** asked if education is free and a school district develops the guidelines and part of that includes putting a computer for use for the curriculum and Internet access in the home school student's home, would there be a problem if he used that piece of equipment for non-curriculum study or the internet access to access other instruction such as religious instruction from someone else. **Mr. Melton** said he thinks that example would be beyond even indirect aid which is prohibited. If the school district had a policy that said the equipment is to be used for the following purposes, it would be the same as having the computers in the classroom. **REPRESENTATIVE MANGAN** said if the student is taking one class through the district and the student uses the same district equipment in Internet access to get seven additional classes through a religious program made available, wouldn't that impose a problem? **Mr. Melton** said that he thinks it would be difficult to stop that from happening. He doesn't believe a court would find much fault with that happening, provided the school district had taken the measures necessary to say, "These are the ground rules of use." If the school had done its part, it would be hard to find fault with it, if the student did something contrary to the agreement.

**REPRESENTATIVE BUTCH WADDILL** had a question for **Mr. Feaver**. He said he believes there is a tremendous amount of latitude in the bill, but he would like to know if **Mr. Feaver** feels there is potential for abuse contained in the bill. **Mr. Feaver** said there is a potential for abuse in what is done now in the schools. The entire education community has been working on that issue for sometime. They believe that bringing the question of distance learning closer to home and engaging the local school district in thinking about the residences within its community is one way to snuff out some of the abuse. The state exports a lot of its dollars to out-of-state vendors to provide residents distance learning that the state could be doing. The bill may address some of the abuses that occur now in a positive way.

**REPRESENTATIVE WADDILL** said on the evaluation of the students enrolled, he needed more information. **Mr. Feaver** said it is the instructor of record who would be responsible for the assessment of student progress, whether they be onsite or offsite.

**REPRESENTATIVE WADDILL** said as he understands the bill there is potential for some of the instruction to be instruction that the school district would not have the capability of giving. In those cases, would the people administering the instruction be responsible for the evaluation? **Mr. Feaver** said the accountability occurs to the school district. The school district is providing the curriculum. That would be under the same rules the law provides currently. What the bill is suggesting is that we don't have to have students onsite, physically, all the time, in order to educate them and collect ANB for doing so. **REPRESENTATIVE WADDILL** asked if this could, in the future, backfire on the state and end up in reducing teachers because we are going to such a system and perhaps the need for teachers in the classroom won't be as necessary with the electronic means available. **Mr. Feaver** said there is a risk in anything done, yes, it is possible.

**Closing by Sponsor:** None

At this point in the meeting, **REPRESENTATIVE BRANAE** took the position of chairman.

#### **HEARING ON SB 457**

**Sponsor:** SENATOR DON RYAN, SD 22, Great Falls

**Proponents:** Jon Metropoulos, Bond Attorney

**Opponents:** None

{Tape : 1; Side : B}

Opening Statement by Sponsor:

**SENATOR DON RYAN, SD 22, Great Falls,** stated that the law currently allows for impact aid to be used, but there are some conservative bond attorneys that say, "It does not specifically say, in law, we may not as our company venture into that area." This law is to address the confusion and make sure there is re-assurance for those conservative bond agents that deal with the impact aid, to make sure that it is a legitimate appropriation by law.

Proponents' Testimony:

**Jon Metropoulos, Attorney representing Browning Schools,** said as he understands the statute, it does not specifically allow using impact aid money in the calculations for repayment of bonds. It has been recommended to add it to law. The Browning School District would find the bill a great aid to it in being able to undertake some of the construction projects which would serve the students.

Opponents' Testimony: None

Questions from Committee Members and Responses:

**REPRESENTATIVE PETERSON** asked **Mr. Metropoulos** to explain to him what the mechanics of the bill are that would help the Browning School District to use these funds to help repay bonds.

**Mr. Metropoulos** said the percentage of the Browning School District's budget that can be used to calculate the bond is 55%. That means that 45% of their budget comes from impact aid money. Because they can't use the impact aid money to calculate how much they can bond for, their bonding authority is lower than it would be if they could add the impact aid money in. **REPRESENTATIVE**

**PETERSON** asked where the impact funds come from, are they federal funds? **Mr. Metropoulos** said they are federal funds appropriated by Congress and have been appropriated for about 45 years during every session of Congress. They go to school districts that have federal land within their boundaries and therefore the land is not taxable. The lands include Indian Reservations, military bases, any sort of federal land that removes taxable land from the local school district. **REPRESENTATIVE PETERSON** asked if the bond attorneys will buy this, will they say, "Yes, this is okay," and is that going to guarantee the bonds. **Mr. Metropoulos** said, to the best of his knowledge, many have reviewed the language and they do think it will allow schools to do the bonding.

**REPRESENTATIVE ANDERSEN** asked if impact funds are based on student count or on acres of federal land. **Ms. Fabiano** said the impact aid monies that come to school districts are partially based on student count and partially based on local effort. They look at the amount of revenue that is coming from local sources verses from state sources in deciding what a school district is entitlement is. There are also three different types of impact aid. One is for regularly impacted schools, there is another type of funding provided for special education students and then there is one for building. She does not believe any Montana schools are receiving building funds.

**REPRESENTATIVE LEHMAN** had a question for the **SPONSOR**. Since the **SPONSOR** represents Cascade County, he would suspect that this bill had some origin there, for a particular reason. He asked him to expound on it. The **SPONSOR** said that his school districts do not have any plans to build, but when the idea came forward and was asked to be presented, he talked to his board and clerk and they said they feel they have the authority to do it now. The bill will clarify the language and remove the doubt for those people looking to certify the bonds. They do have significant impact aid in Great Falls and if the situation was to arise where they have an influx due to something the military may change, it may them ability to go out and build without going to the local tax payers for additional dollars. **REPRESENTATIVE LEHMAN** said having initiated a building program and gotten a bond issue passed when it was very difficult to do that in a rather poor rural district, he asked the **SPONSOR** if he sees some inequity for those districts that do not receive impact aid and have to go directly to their voters. Generally the bonds are paid off over a period of twenty years and the interest rate is high, this bothers him in terms of equity. The **SPONSOR** stated that schools are never going to get to total fairness when the state deals with the fact that some districts have more federal money coming in because of local situations. There are some inequities in education. **REPRESENTATIVE LEHMAN** said he could see the possibility of some abuse. The **SPONSOR** said that anything his school district can do to keep from going to the property tax payers, they've tried to do.

**REPRESENTATIVE GALVIN-HALCRO** asked if the impact aid funds fluctuate very much from session to session. The **SPONSOR** said yes. It depends on where the federal government is with funds and how they divide them up. Districts never know.

**Closing by Sponsor:**

He asked that **REPRESENTATIVE JOE TROPILA** carry it on the floor is the bill passes out of committee.

**HEARING ON SB 218****Sponsor:** SENATOR DON RYAN, SD 22, Great Falls**Proponents:** None**Opponents:** None**Opening Statement by Sponsor:**

SENATOR DON RYAN, SD 22, Great Falls, stated that this is the only bill he promised he would carry if he was elected to come to the legislature. As a member of the Great Falls School Board for the past five years, every year when they are doing the budget they come to fund 15, the Tuition Fund. It is sitting there with no money in it. It has no incoming revenue and it has no expenditures. It use to be a permissive levy for tuition. They use to spend a great deal of money, prior to the state taking over the responsibility of sending special education kids out of state. That is not a responsibility of the school districts anymore. Currently, the law would allow his school district to call that fund obsolete, or without calling it obsolete, move it into general fund. Because of what is called the Guarantee Tax Base, basically they take only local tax dollars and they will be saying, "Here state, take these local tax dollars and give us fifty cents on the dollar back." The bill is the way to move dollars from an obsolete fund over to the Miscellaneous Programs Fund. When he did the fiscal note, he came across some information in Assumption #3, it says, in the last two fiscal years, 127 school districts reported fund balances totaling \$854,570 in Tuition Funds that are sitting in Tuition Funds across the state of Montana. Because of current law, people aren't moving those over because they lose those local dollars. What the bill will do is allow local districts to move those dollars, that are local dollars, over to the Miscellaneous Programs Fund and that money will be available to the district. The money varies from \$200 to \$100,000. It is a significant amount in some districts and not in others. There have been attempts to put this question out to a vote of the people, but it wasn't worth the paper to create the ballot. The bill is trusting the local authorities to make this one-time adjustment. If the bill is passed, it would make the Tuition Fund a closed one and it could not be opened again.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE MANGAN** asked the **SPONSOR** to tell the committee why there is a fiscal note for \$25,000 for something as simple as this bill. The **SPONSOR** said that currently there are some districts that levy a little bit more into their Tuition Fund and there is a misunderstanding by the fiscal department because those that over levy, what they are doing is moving that money and putting it into their general fund. That means their money moves in and the state doesn't have to put out so much in guaranteed tax base. Because there is \$50,000 each year, what that tells the **SPONSOR** is that the districts are moving the money continually and re-levying money for their tuition needs, rather than keeping it in that fund. The \$25,000 is a one-time appropriation.

**REPRESENTATIVE MANGAN** asked **Ms. Fabiano** to answer the same question. **Ms. Fabiano** said the **SPONSOR** had explained it correctly. She went over it again briefly.

**REPRESENTATIVE JACOBSON** asked why the **SPONSOR** chose to specifically transfer the money into a non-budgeted fund as opposed to say any of the other funds or leave it open. The **SPONSOR** said the Miscellaneous Programs Fund is probably the most flexible one available to use one-time monies.

**REPRESENTATIVE LEHMAN** said that he is wondering if there is a concurrence between this bill and a similar one presented by **SENATOR ELLIS**. The **SPONSOR** said there are some big similarities with both of them. This bill would achieve one objective.

**REPRESENTATIVE LEHMAN** asked if the **SPONSOR** would prefer the committee approve his bill rather than **SENATOR ELLIS's**, or certainly the **SPONSOR's** bill. The **SPONSOR** said he would prefer both bills be passed.

**REPRESENTATIVE ANDERSEN** stated, if **SENATOR ELLIS' bill, SB 65**, passes and she is to carry it on the floor, her recollection is that there are districts that would be responsible for paying tuition. Would it be advisable to closeout the tuition accounts, if this is the case? The **SPONSOR** said if he remembers the bill correctly, that bill states that if you pay tuition for one, you have to pay it for all and sets the criteria. It doesn't require a district to pay tuition for traveling students, unless in a particular category. A school district can deny to pay tuition. If this bill passes and a Tuition Fund was closed out and the district was required to pay tuition, they would have to do that

out of their general fund. **REPRESENTATIVE ANDERSEN** asked if the money was going to have to come out of the general fund, wouldn't it have to be voted money? The Tuition Fund is a non-levied revenue, is it not? The **SPONSOR** said there is no non-levied fund anymore in this time frame. **REPRESENTATIVE ANDERSEN** said the money in the Tuition Fund is not voted on by the voters, is that correct? The **SPONSOR** said the money in this particular fund has been sitting there for a long time with no activity because if the school does something with it, the only option they have is to move it over into the general fund and close the fund out. Basically what that would do is take local dollars and lose what they get back from the state. So the schools are waiting for a change in law. **REPRESENTATIVE ANDERSEN** asked if the fund was depleted or closed, and put into the general fund for other issues, if the school district then came to have an occasion to have students that were eligible for tuition, wouldn't the money in the general fund for the cost have to come through a voted levy. The **SPONSOR** said, depending where each district fits as far as the cap 80-100%, it would make a difference whether they had the money. Yes, they would have to go out and vote. **Ms. Fabiano** said the Tuition Fund is a non-voted fund. School districts are free to levy in that fund whatever they feel is necessary to pay the tuition obligation. Under the bill, balances in some of the district funds have not been spent for a couple of years, but there is no definition of when that fund is obsolete. A school board may choose to leave the money sitting in the fund, knowing that somewhere down the road a student is going to enter the district and require them to use the tuition. Other districts decide when they don't have an obligation in the next year, they can close it and put it in the general fund. When those districts get a student that requires tuition again, they will open the fund and levy the amount of money they need and pay the tuition.

**Closing by Sponsor:**

**SENATOR RYAN** said it is a bill his district would like to have passed. It will allow, in this tight budget time, districts to use money sitting in inactive Tuition Accounts. If the bill passes, **REPRESENTATIVE GALVIN-HALCRO** will carry it on the floor.

**REPRESENTATIVE GAY ANN MASOLO** became chairperson of the committee at this time in the meeting.

**EXECUTIVE ACTION ON SB 60**

**Motion:** REP. GALVIN-HALCRO moved that SB 60 BE CONCURRED IN.

**Discussion:**

**Connie Erickson** reminded the committee that there are amendments proposed to the bill. **EXHIBIT (edh62a02)**

**Motion:** REP. GALVIN-HALCRO moved that **PROPOSED AMENDMENTS TO SB 60 BE ADOPTED.**

**Discussion:**

**Connie Erickson** explained the amendments. The amendments are going to ensure that the state commission will include the State Superintendent of Public Instruction. Currently the bill does not make this requirement.

There was some question as to how long the state could belong at no cost to the state. **REPRESENTATIVE BRANAE** reminded the committee that it said somewhere in the future, the state would be asked to pay the normal fees.

The question was called for.

**Vote:** Motion that **PROPOSED AMENDMENTS TO SB 60 BE ADOPTED** carried unanimously.

**Motion/Vote:** REP. GALVIN-HALCRO moved that **SB 60 BE CONCURRED IN AS AMENDED.** Motion carried 17-1 with Andersen voting no.

**REPRESENTATIVE MASOLO** will carry the bill on the floor.

**EXECUTIVE ACTION ON SB 218**

**Motion/Vote:** REP. GALVIN-HALCRO moved that **SB 218 BE CONCURRED IN.** Motion carried 17-1 with Andersen voting no.

**REPRESENTATIVE GALVIN-HALCRO** will carry the bill on the floor.

**EXECUTIVE ACTION ON SB 457**

**Motion:** REP. GALVIN-HALCRO moved that **SB 457 BE CONCURRED IN.**

**Discussion:**

**REPRESENTATIVE ANDERSEN** said that, as a person whose children receive impact funds for school districts because her husband was a federal employee, they owned houses and paid taxes. There were a great number of families in the service that lived off base. She believes impact funds impact school districts, but some of the people do pay taxes.

Question was called for.

**Vote:** Motion **SB 457** carried 16-2 with Bixby and Waddill voting no.

**REPRESENTATIVE JOE TROPILA** will carry the bill on the floor.

#### **EXECUTIVE ACTION ON SB 231**

**Motion:** **REP. LAWSON** moved that **SB 231 BE CONCURRED IN.**

#### **Discussion:**

**REPRESENTATIVE FRITZ** stated that she doesn't understand why this program isn't funded and put under the guidance of OPI so that the state has the best program available for our districts to choose from. It seems to her like the state is assuming a lot about an individual district's ability to prepare the presentation of a teacher and to do the technology necessary to get that across on the monitor. That is a highly technological and professional ability. The conception of the bill is sloppy.

**REPRESENTATIVE JACKSON** said he agrees with **REPRESENTATIVE FRITZ**. He doesn't see enough structure in the bill or quality of instruction for the kids for the price. It is difficult to learn from videos. It will require a lot of training for teachers involved.

**REPRESENTATIVE LEHMAN** said what the committee would be doing, if it approves the bill, is basically endorsing the concept. He doesn't see it as responsibility of the legislature to set down all the details that have to be worked out. The title of the bill speaks to the concerns of **REPRESENTATIVES FRITZ** and **JACKSON** to some extent. The committee has to have some confidence in what OPI would set up. He believes the bill should be passed out of committee.

The **CHAIR** said, in assumption 3 of the fiscal note, it mentions BPE will establish accreditation standards for the learning program. She feels it is a beginning for the program. The bill isn't perfect, but it has good potential.

**REPRESENTATIVE WOLERY** said he can support the bill as long as it has the clause in it that keeps it within the district and there can't be any pirating of students from other districts.

The question was called for.

**Vote:** Motion that **SB 231 BE CONCURRED IN** carried 13-5 with **Branae, Fritz, Jackson, Musgrove, and Walters** voting no.

**REPRESENTATIVE ALLAN OLSON** will carry the bill on the floor.

**EXECUTIVE ACTION ON SB 130**

**Motion:** REP. WADDILL moved that **SB 130 BE CONCURRED IN**.

**Discussion:**

The question was called for.

**Vote:** Motion that **SB 130 BE CONCURRED IN** carried 16-2 with **Andersen and Lehman** voting no.

**REPRESENTATIVE WADDILL** will carry the bill on the floor.

**EXECUTIVE ACTION ON SB 390**

**Motion:** REP. GALVIN-HALCRO moved that **SB 390 BE CONCURRED IN**.

**Discussion:**

The **CHAIR** said there are amendments to the bill.

**EXHIBIT** (edh62a03)

SB039001.ace.

**Motion:** REP. GALVIN-HALCRO moved that **AMENDMENTS TO SB 390 SB039001.ACE** BE ADOPTED.

**Discussion:**

**Connie Erickson** explained the amendments. This is to create a coordination with another bill. Previously the committee heard **REPRESENTATIVE JESSE LASLOVICH's** bill that had to do with the setting of the date for the final budget meeting. There were some conflicts with **SB 390**, so **SENATOR JOHN COBB, REPRESENTATIVE LASLOVICH**, the education people and OPI worked it out so that they will use the dates in **REPRESENTATIVE LASLOVICH's** bill.

**REPRESENTATIVE LEHMAN** called for the question.

**Vote:** Motion that **AMENDMENTS TO SB 399, SB039001.ACE BE ADOPTED** carried unanimously.

**Motion:** REP. GALVIN-HALCRO moved that **SB 390 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**Motion:** REP. GALVIN-HALCRO moved that **AMENDMENTS TO SB 390, SB039002.ACE BE ADOPTED.**

**Discussion:**

**Connie Erickson** was asked to explain the second set of amendments. These amendments again are coordination with **REPRESENTATIVE KEITH BALES** bill that had to do with re-opening a school that had been closed. Both bills amended the same section of law and they would have been in conflict. These amendments take care of that conflict. **EXHIBIT(edh62a04)**

The question was called for.

**Vote:** Motion **AMENDMENTS TO SB 390, SB039002.ACE** carried unanimously.

**Motion:** REP. GALVIN-HALCRO moved that **SB 390 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**REPRESENTATIVE JACKSON** called for the question.

**Vote:** Motion that **SB 390 BE CONCURRED IN AS AMENDED** carried 14-4 with Bixby, Fritz, Lawson, and Waddill voting no.

**REPRESENTATIVE RICK RIPLEY** will carry the bill on the floor.

{Tape : 2; Side : A}

**EXECUTIVE ACTION ON SB 430**

**Motion:** REP. LEHMAN moved that SB 430 BE CONCURRED IN.

**Discussion:**

**REPRESENTATIVE MERLIN WOLERY** asked that someone on the committee review the hearing on the bill since he was absent when it was heard in committee.

The **CHAIR** said it appears to be an unfunded mandate. The bill sought 90% of all 3<sup>rd</sup> graders being able to read passing an assessment of a criterion referenced test. They would measure the student's progress toward understanding and applying physically taught concepts. There is nothing in the bill addressing special education.

**REPRESENTATIVE JACOBSON** asked if Montana currently, in law, requires the tests being talked about. Does the legislature normally leave the testing program up to BPE?

**REPRESENTATIVE LEHMAN** said he thinks the bill takes away local control. It mandates what every school in the state will do in terms of testing.

**REPRESENTATIVE JACOBSON** said that he agrees with **REPRESENTATIVE LEHMAN**.

**REPRESENTATIVE BRANAE** said he had concerns about the bill. It appeared to him that the bill would demand more teachers. Students with disabilities are not addressed in the bill. This is a single-item approach.

The **CHAIR** stated that the bill is based on the book mentioned during the hearing. The book is wonderful, if a school has the parents behind them. Anything works when the parents are behind the program. If any district wanted to follow the program outlined in the book, they could do it, but the legislature should not mandate it.

**REPRESENTATIVE ANDERSEN** said she also read the book about the Kennewick schools. The thing that impressed her about the program is that it was a local decision. The school, parents, educators and community got involved in the effort. That is where it should start. She will not vote for an unfunded mandate.

**REPRESENTATIVE JACKSON** said that he supports the bill after reading the book. It is basically putting something in place for accountability. He does realize that children in Montana should be tested earlier, before the 4<sup>th</sup> grade test. A school should be able to see that the reading skills are progressing. Reading is the most important part of a kid's education.

The **CHAIR** said she really believes accountability is in place already in Montana elementary schools.

**REPRESENTATIVE FRITZ** said she doesn't think this is a program that is intended to present accountability. She has talked with other educators about it and a lot of what is going on depends upon the teachers being highly trained in the diagnosis and the solving of reading problems that occur, especially at the 3<sup>rd</sup> grade level because kids are changing from being decoders to being content readers. That's where a lot of kids fall out in the third year. Initially she was very excited about the program because it is recognition that the 3<sup>rd</sup> grade is very important. It is a silver bullet because it is saying, "do the testing," which is really just doing the diagnosis. It is providing a person in OPI to come around and check to see that people are doing what is requested. It should be a bottom up process. If there is money to be put into the idea, it should be for training the teachers on the local level to put together this kind of a program. It is a wonderful program, but she knows that this is not the way to do it.

The **CHAIR** said, once when they had a wonderful program, the school board had implemented it and sent all the teachers to be trained. It started with local control.

**REPRESENTATIVE ANDERSEN** said one of the things in the book that impressed her was that the teachers in the lower grades were given some latitude as to possibly use more of their school days to teach reading concepts and establishing the skills so that they were very solid. They may have, somewhere along the line, left out one of the other subjects because they used more time to teach reading. This bill doesn't address that problem. Teachers use to tell her that there was not enough time to develop the reading skill because they so many other requirements placed on them in the classroom.

**REPRESENTATIVE LAWSON** called for the question.

**Vote:** Motion that **SB 430 BE CONCURRED IN** failed 3-15 with Jackson, Peterson, and Wolery voting aye.

**Motion:** REP. GALVIN-HALCRO moved that **SB 430 BY A REVERSED VOTE BE TABLED.**

**ADJOURNMENT**

Adjournment: 6:00 P.M.

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REP. GAY ANN MASOLO, Chairman

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NINA ROATCH, Secretary

GM/NR

**EXHIBIT** (edh62aad)